of New Hampshire
OFFICE OF ATTORNEY-GENERAL

COPY

November 25, 1957

Winfield J. Phillips, Bank Commissioner
State House
Concord, New Hampshire

Dear Mr. Phillips:

Your letter of November 25, 1957, requests the opinion of this office relative to an interpretation of RSA 386:9.

RSA 386:9 in effect provides that mutual savings banks shall annually place to the credit of their guaranty fund a percentage of their net earnings that year until the fund shall amount to a sum equal to five per cent of the bank deposits, and further provides that no part of the guaranty fund shall be used to pay dividends. Your policy as indicated by your letter is to charge any losses that may be sustained by a mutual savings bank first to the reserve for bad debts or undivided profits if any, and to the extent that such reserve or undivided profits are insufficient to absorb the loss then they shall be chargeable to the guaranty fund. That procedure appears to this office to be a sound one both on the practical level as well as in the accounting concept.

It would appear that the establishment of a guaranty fund is to create a cushion of assets in excess of the bank's deposit liability thus enabling a bank to experience a reduction in the value of its assets without rendering it insolvent. A bank's assets are made up primarily of two categories, namely: securities which may fluctuate in value, and loans some of which, of course, may involve losses. Thus the primary purpose of the guaranty fund would be to absorb losses resulting from either of these two sources; whereas the reserve for bad debts, and undivided profits account are the initial cushion before the guaranty fund is to be invaded. In other words, a bank having a guaranty fund and an undivided profits account, or a reserve for bad debts, must charge its losses against the undivided profits and its reserve for bad debts before it can charge losses against its guaranty fund.

Very truly yours,

William J. Deachman
Assistant Attorney General

WJD/m